

Court of Appeals, State of Michigan

ORDER

People of MI v John Muncy II

Docket No. 285092

LC No. 07-024114-01

Michael J. Talbot
Presiding Judge

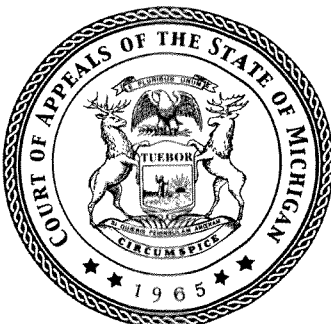
Kurtis T. Wilder

Christopher M. Murray
Judges

The Court orders that the motion for immediate consideration is **GRANTED**.

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the Court further orders that the March 11, 2008, order of the Wayne County Circuit Court, which granted the prosecution's motion regarding MRE 803(2) and indicated the trial court is allowing the out-of-court statements made by the child complainant to be admitted at trial, is **VACATED**. Although defendant failed to attach any of the pleadings filed below, defendant represents that the prosecution sought to admit the child-victim's statements made to her grandmother and a detective pursuant to MRE 803(2) at trial. Defendant filed transcripts for the hearings conducted on January 24, 2008, February 14, 2008, and March 11, 2008, which contain no analysis of whether the child's statements are admissible under the excited utterance hearsay exception, MRE 803(2). Accordingly, because this Court cannot review whether the trial court abused its discretion in allowing the statements, the matter is **REMANDED** for the trial court to conduct an analysis prior to trial and to take additional testimony if necessary.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 30 2008

Date

Sandra Schultz Mengel
Chief Clerk